

**U.S. Department of Labor**

Assistant Secretary for  
Employment and Training  
Washington, D.C. 20210



**SEP 30 2005**

The Honorable Bob Riley  
Governor of Alabama  
State Capitol  
600 Dexter Avenue  
Montgomery, Alabama 36130-2751

Dear Governor Riley:

We are pleased to be able to respond positively to your request for waivers and work-flex designation to help you respond to the devastation caused by Hurricane Katrina. This action is taken under the Secretary's authority to waive certain requirements of WIA Title I, subtitles B and E and sections 8-10 of the Wagner-Peyser Act. The request is written in the format identified in WIA section 189(i)(4)(B) and 20 CFR 661.420(c), and appears to meet the standard for approval at 20 CFR 661.420(e) and 20 CFR 661.430. The following is the disposition of the state's submission (copy enclosed).

Requested Waiver 1: Waiver of the administrative cost limitation set forth at WIA section 128(b)(4)(A) and 20 CFR 667.210(a)(2).

The state indicates that the hurricane has created the need for additional administrative expenditures to replace losses and to handle the increased demand for workforce services. Accordingly, we are approving a waiver of the administrative cost limitation at WIA section 128(b)(4)(A) and 20 CFR 667.210(a)(2). This waiver will allow you to extend flexibility to those local areas that demonstrate need, using criteria developed by the state. Authority for this waiver is limited to six months from date of approval.

Requested Waiver 2: Waiver of the funds transfer limitation at WIA section 133(b)(4).

We note that Alabama currently has an approved waiver to approve local area requests to transfer up to 100 percent of local area allocations between the WIA Adult and Dislocated Worker programs. We agree with the state that this waiver will be especially useful at this time for local areas affected by the hurricane.

Requested Waiver 3: Waiver of the language that limits the authority to provide the activities identified in WIA section 134 to the state.

Alabama currently has an approved waiver that permits local areas to request the use of up to 10 percent of local area formula allocation funds to provide statewide

employment and training activities. The state is now seeking even more flexibility to use local funds in areas impacted by the hurricane. Accordingly, we are granting a waiver of the language that limits the authority to provide the activities identified in WIA section 134 to the state. This will permit local areas impacted by the hurricane to request the use of up to 100 percent of local area formula allocation funds to provide statewide employment and training activities. Under the waiver, local areas granted this flexibility by the Governor must continue to conduct the required local employment and training activities at WIA section 134(d). In addition, the state must continue to meet the performance and reporting requirements applicable to local area funds.

Requested Waiver 4: Waiver to permit the state to develop more flexible recapture and reallocation policies.

The state indicates that this waiver will allow for the more efficient use of limited funds and will give the state the ability to target funds to local areas most in need.

Accordingly, we are approving a waiver of the reallocation provisions at WIA sections 128(c)(2) and 133(c)(2), and 20 CFR 667.160. Under the waiver, the state is permitted to implement the following features: 1) mid-year deobligation and reallocation of local area funds; 2) recapture of funds from local areas that have not expended at least 80 percent of their local funds in the first year; 3) use of recaptured funds for statewide activities or reallocation to other eligible local areas; 4) use of additional factors in determining local area eligibility for a reallocation of recaptured funds, including demonstrated need and ability to use additional funds.

Requested Waiver 5: Waiver of the required 50 percent employer match for customized training.

The state is granted a waiver of the required 50 percent employer match for customized training at WIA section 101(8)(C) to permit local areas to offer a sliding scale match based on criteria developed by the state. This should be particularly useful for businesses impacted by the hurricane and those training hurricane-impacted individuals.

Requested Waiver 6: Waiver of WIA section 101(31)(B) to increase the employer reimbursement for on-the-job training.

The state is seeking this waiver for hurricane-impacted businesses and those training hurricane-impacted individuals. We are granting a waiver of WIA section 101(31)(B) to permit reimbursement of up to 100 percent of the wage rate to compensate for the employer's extraordinary costs. Under the waiver, the state should develop criteria for determining reimbursement rates. We urge the state to continue to leverage employer

resources to jointly meet workforce needs. It is intended that maximum flexibility under this waiver be applied only to those businesses that demonstrate great need as a result of the hurricane. Authority for this waiver is limited to six months from the date of approval.

Requested Waiver 7: Waiver of state and local performance provisions at WIA sections 136(b) and (c) and associated reporting requirements for Program Year 2005.

In light of the devastation wrought by the hurricane, including displacement of WIA participants, the state is seeking some relief from performance requirements. This request meets the higher standard for waiving provisions related to a key WIA reform principle at 20 CFR 661.410(c). Accordingly, we are approving a waiver of state and local performance provisions at WIA sections 136(b) and (c) to permit the state to exclude from the performance measures those participants who have been forced from their local area or state as a result of the hurricane. This waiver applies solely to these individuals. However, the state must include these displaced participants in its annual WIASRD submissions, using a special notation of their status in the global exclusion field. At this time, we are not granting a waiver of all reporting and recordkeeping requirements for individuals impacted by the hurricane.

We understand that the impact of this event on the workforce investment system in your state may not yet be fully felt and that the state may identify additional barriers related to performance in the near future, for which waivers may be sought. ETA is open to reviewing with the state Department of Labor policies and definitions for certain performance measures that may be adversely impacted as a result of the Hurricane Katrina damage.

Requested Waiver 8: Waiver of the prohibition on the use of funds for public service employment at WIA section 195(10).

The state indicates that this waiver will allow it to provide employment for affected individuals in clean-up and recovery efforts. Accordingly, we are granting a waiver of this provision as requested. Authority for this waiver is limited to six months from date of approval.

Requested Waiver 9: Waiver of the limitation on the use of funds for capitalization of businesses at WIA section 181(e).

The state is seeking this waiver to assist businesses that were destroyed by the hurricane and to help individuals create new self-employment opportunities. Accordingly, we are approving a waiver of this provision to permit WIA funds to be used to capitalize a small business up to \$5,000. Under the waiver, this activity must be conducted in concert with entrepreneurial or microenterprise training for the individuals benefiting from the capitalization.

Requested Waiver 10: Waiver of the requirement that local programs provide each of the ten youth program elements at WIA section 129(c)(2) as options available to youth participants.

We are granting this waiver to provide flexibility in services to youth in areas impacted by the hurricane. Such a waiver will allow affected local areas to focus on the youth services most needed.

In addition to waivers, the state is requesting designation as a work-flex state. In its work-flex plan, the state indicates that it will likely waive provider eligibility provisions applicable to local areas under WIA section 122. The plan says that this will be valuable due to the increased demand for training and the limited availability of training providers in certain local areas as a result of the hurricane. As other local level barriers are identified during the recovery process, the state indicates that additional work-flex waivers are likely to be granted.

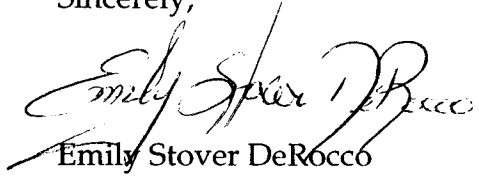
Accordingly, we are approving designation of the state as a work-flex state. As a condition of the designation, the state may grant waivers of provisions at WIA section 122 applicable to local areas, and will ensure that training providers are helping individuals with skills in-demand that lead to sustainable employment. Additionally, the state will submit to the Regional Office the process by which local areas may submit and obtain state approval of applications for work-flex waivers, and a list of other local provisions that it anticipates waiving.

The waivers and work-flex designation are approved through July 30, 2007, unless otherwise specified. For the three waivers approved for a 6-month period, we will consider requests for extensions of these waivers, if continued need is demonstrated. The precise programmatic and performance outcomes for the granted waivers and work-flex designation will be negotiated with the ETA Regional Office within the next three months. As indicated in our letter dated September 13, 2005, your submission of these requests and ETA's approval do not require the state to use all of the authority granted. Please inform the ETA Regional Office of the waivers you decide to implement.

The granted waivers and work-flex designation are incorporated by reference into the state's WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and also constitute a modification of the state's approved two-year strategic plan. A copy of this letter should be filed with the state's WIA Grant Agreement and the state's approved two-year strategic plan, as appropriate.

We hope that these waivers will be of use to you during this time of crisis. We are prepared to entertain other state and local level waiver requests that you may wish to submit, consistent with the provisions of the WIA statute and regulations.

Sincerely,

A handwritten signature in cursive script, reading "Emily Stover DeRocco". The signature is written in black ink and is positioned above the printed name.

Emily Stover DeRocco

Enclosure